

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

11/30/21
04:59 PM

Order Instituting Rulemaking Regarding
Revisions to the California Advanced Services
Fund.

Rulemaking 20-09-001

**COMMENTS OF THE COUNTY OF SANTA CLARA ON
ADMINISTRATIVE LAW JUDGE'S EMAIL RULING**

COUNTY OF SANTA CLARA

DIGITAL EQUITY CONSORTIUM

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November 30, 2021

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Broadband Infrastructure Deployment and to
Support Service Providers in the State of
California.

Rulemaking 20-09-001

**COMMENTS OF THE COUNTY OF SANTA CLARA ON
ADMINISTRATIVE LAW JUDGE’S EMAIL RULING**

I. Introduction

The County of Santa Clara Digital Equity Consortium, on behalf of the County of Santa Clara (“County”), respectfully submits the following comments on the E-Mail Ruling Requesting Comments on Proposal for Apportionment of Funds for Federal Funding Account Grant Program (“Ruling”), dated November 10, 2021, as part of the California Public Utilities Commission’s (“Commission’s”) Order Instituting Rulemaking Regarding Broadband Infrastructure Deployment and to Support Service Providers in the State of California. The County appreciates the opportunity to provide comments on the Ruling and strongly supports efforts from the Commission to support local governments and communities working to close the digital divide.

II. Background

Public Utilities Code section 281 directs the Commission to create the Federal Funding Account for last-mile broadband infrastructure projects, with \$1 billion allocated to projects in urban counties and \$1 billion allocated to projects in rural counties. The Commission has proposed an approach that defines each county as “rural” or “urban” relying on a method similar to the classification used by the Federal Office of Management and Budget (OMB).

III. Discussion

A. Strict binary distinction between urban and rural counties will result in an inequitable distribution of funds for rural communities in urban counties.

The Commission’s proposal, which makes strict binary distinctions between “rural” and “urban” counties fails to account for the fact that many counties have both rural and urban regions. For example, Santa Clara County consists of both densely populated urban areas, such as the City of San José, and sparsely populated rural areas, such as the largely agricultural Coyote Valley and San Antonio Valley. In fact, according to the U.S. Census, 75% of the census tracts in Santa Clara County are rural, and more than 27% of Santa Clara County is subject to ongoing contracts under the Williamson Act (Government Code Section 51200 *et seq*), meaning that the land is contractually limited to certain agricultural and open space uses.¹ While the rural tracts contain a relatively small portion of Santa Clara County’s population, altogether they encompass a 974 square mile region with a population of about 22,000 people, a region larger than sixteen entire counties, and more populous than eight counties.² Many of the portions of Santa Clara County unserved at 100 Mbps download speed are in rural census tracts or in areas with large amounts of property subject to Williamson Act contracts.

¹ U.S. Census Bureau (2020); Santa Clara County has 359 square miles of properties under ongoing Williamson Act contracts. This figure does not include properties that are currently subject to Williamson Act contracts that are non-renewed. Williamson Act Properties, Santa Clara County Planning and Development Department (2021).

<https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce>.

² Smaller counties are: San Francisco, Santa Cruz, San Mateo, Marin, Sutter, Amador, Yuba, Contra Costa, Alameda, Alpine, Napa, Solano, Orange, Sierra, Nevada, and Sacramento. Square Mileage by County, California State Association of Counties, <https://www.counties.org/pod/square-mileage-county>. Less populous counties are: Alpine, Sierra, Modoc, Mono, Trinity, Mariposa, Inyo, and Plumas. California Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2020 and 2021 (May 2021), <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/>.

Areas with Service Levels Below 100/20 Mbps - Santa Clara County

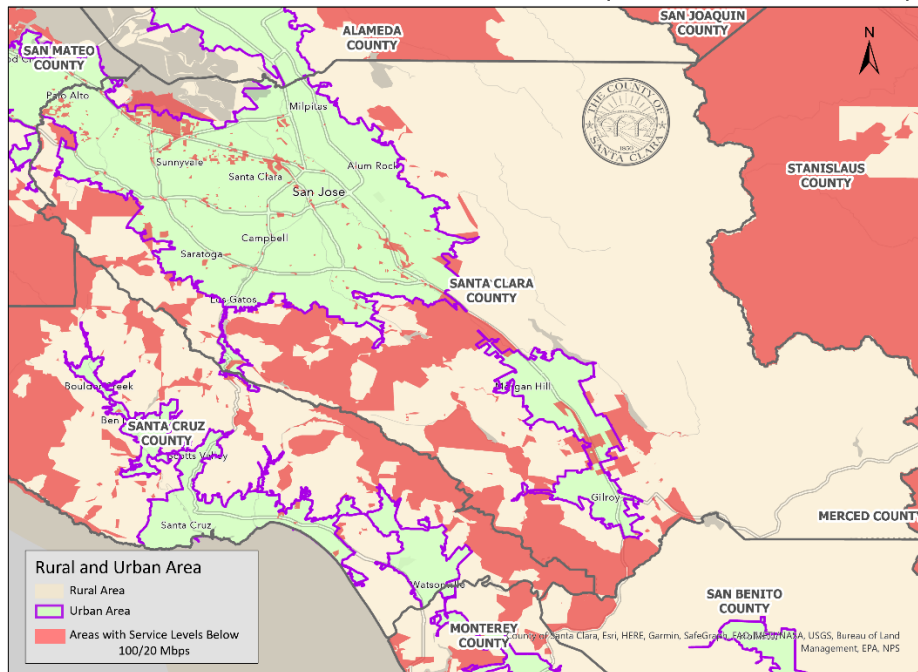


Figure 1 Areas of Santa Clara County classified as rural by U.S. Census bureau.

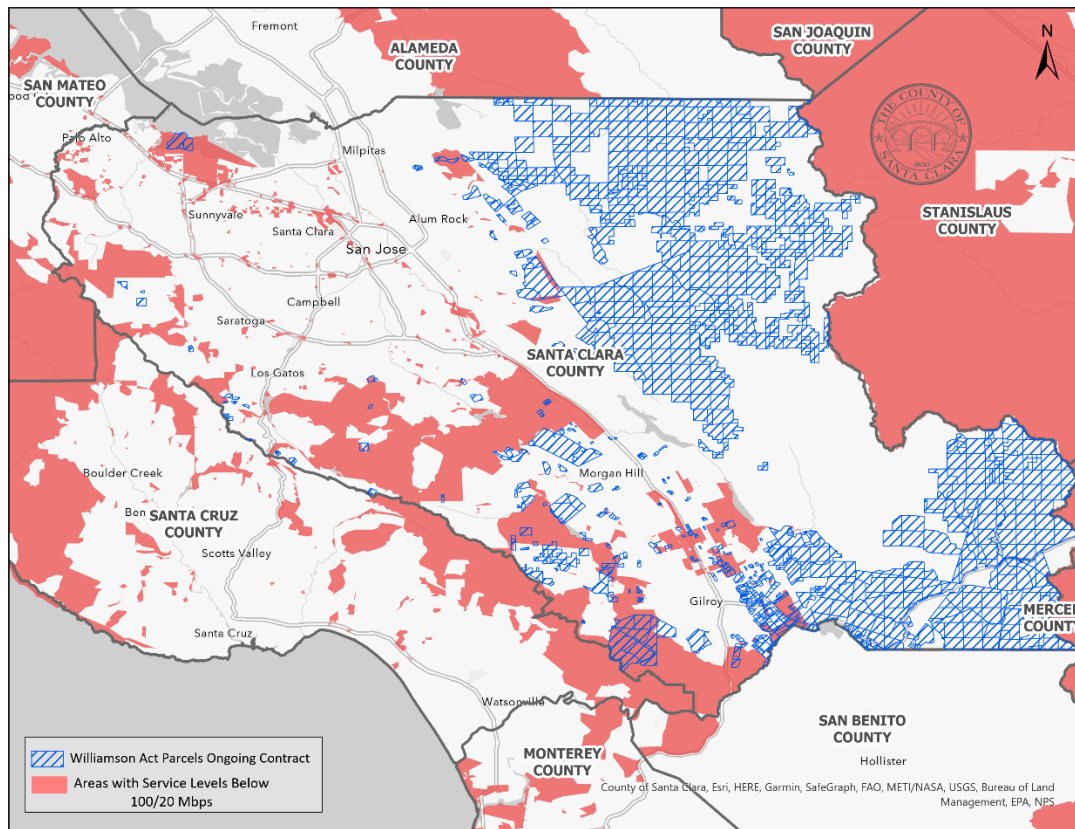


Figure 2 Areas of Santa Clara County subject to ongoing Williams Act contracts.

Santa Clara County's rural communities share many of the same broadband challenges as other rural areas of the state. In particular, lot sizes and low population densities in agricultural areas of the Coyote Valley and challenging topographies in areas such as the Diablo and Santa Cruz mountains make broadband deployment difficult and expensive. Consequently, these rural communities are the regions in Santa Clara County where funding for broadband infrastructure is most needed.

The Commission's proposal will significantly disadvantage certain unserved rural communities because they are located within a county designated as "urban." Under the Commission's proposed OMB Rural Definition, "rural" counties will receive about five times more resources per household to connect their unserved households as "urban" counties to address similar challenges. For reference, the Commission's proposal would award Colusa County, which has a similar size and population (1,151 square miles, population 22,000) to Santa Clara County's rural census tracts, \$40.22 million to serve 4,761 unconnected households compared to Santa Clara County's \$32.4 million to serve 18,907 unconnected households. Rural communities across the state deserve equal access to resources, no matter where they are located.

A more equitable methodology would designate each county a certain percent urban and a certain percent rural, considering factors such as the portion of the county consisting of rural census tracts (excluding park land), proportion of the county subject to Williamson Act contracts or otherwise zoned for agriculture or open space, and the percent of the population living in those rural census tracts. Counties could then draw from the urban fund to fund projects in their urban areas and the rural fund for projects in their rural areas. This approach would preserve the Legislature's intent of splitting funds equally between urban and rural communities while ensuring equal treatment for similarly situated communities across the state.

B. Of the Commission's three proposed definitions, the RCRC Rural Definition is the most appropriate.

As the Rural County Representatives of California itself acknowledges, the definition of "rural" is complex and multifaceted.³ Categorizing counties by membership in Rural County Representatives of California is a simple way to identify counties that have committed a significant amount of effort to addressing the unique challenges that rural counties face. This

³ About RCRC, Rural County Representatives of California, <https://www.rcrcnet.org/about-rcrc> ("The term "rural" may be defined in various ways: population density, population size, demographics or economic data.").

definition also results in the least disparity in allocation of funding, with approximately \$3,644 per unserved household for “rural” counties and \$2,497 per household for “urban” counties. If the Commission retains the binary categorization of counties as “urban” or “rural,” the Commission should use the proposed RCRC Rural Definition.

IV. Conclusion

The County appreciates the opportunity to provide input into the State’s process for allocating Federal Funding Account grant funds. We look forward to the Commission’s final decision on the Ruling and support the Commission’s efforts to increase access to affordable and reliable internet services in an equitable manner.

Respectfully submitted November 30, 2021, at San José, California.

COUNTY OF SANTA CLARA

/s/ Imre Kabai

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